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PRICE FIVE CENTS

JUDGMENT REVERSED

Extortion Cases Have Been
Turned Down.

DEMURRER SUSTAINED

Former Mayor Schmitz and Abe
Ruef Not Guilty of the
Offense.

DISTURBED PROSECUTION

Appellate Court Holds That Judge Dunne
Showed Prejudice in Permitting Evi-
dence to Appear and That Many Errors
Were Permitted in Trial.

SAN FRANCISCO, Jan. 9.—
The judgment and order are re-
versed and the trial court is di-
rected to sustain this demurrer
to the indictment and discharge
the defendant as to such indict-
ment.

This was the decision handed down by the district court of appeals reversing the judgment of the trial court in the case of former Mayor Schmitz, convicted on a charge of extorting money from French restaurants for liquor licenses, and setting aside the indictment on which his conviction was had, on the ground that the indictment did not show that a public offense was committed, because it did not allege any threat to injure property, the court holding that a liquor license was not property, but merely permission, that the threat to prevent the obtaining of a liquor license, by one who had no authority in the premises, did not constitute a threat against property, and because of numerous errors in the ruling of the trial, the judges of the appellate court held the indictment was invalid and the conviction null and void. In effect the court held that Schmitz was not given a fair and impartial trial.

Among the errors of the trial court, as being the cause for reversal, the appellate court, in the decision enumerates the following:

"The court under the defendant's objection allowed the prosecution to preemptorily challenge two jurors after they had been accepted and sworn, without proper cause being shown or even stated; that the court permitted the filing of affidavits, disqualifying the sheriff and coroner as officers to take charge of the jury and appointed an elisor for that purpose, before affidavits were first served upon the defendant, and refused to allow the defense to file counter affidavits showing that the elisor named by the court was prejudiced, biased and a personal enemy of the defendant; the admission by the court of hearsay evidence of vile witnesses; that the court admitted the testimony of Ruef, in rebuttal, when it did not constitute evidence in rebuttal, and upheld the prosecution in improper cross-examination of the defendant; and that the court erred in overruling the defendant's demurrer to the indictment."

While the decision was not wholly a surprise even to the prosecution, and had been freely predicted by Schmitz' friends for some time, it did not fail to cause something of a sensation, and was the sole topic of conversation today. The decision will have the effect of invalidating the other four indictments charging Schmitz, as well as Ruef, with extortion, and renders void the plea of guilty made by Ruef, as the appellate court held no crime had been committed. By this reversal it is feared the prosecution has lost its hold upon Ruef, and it is freely predicted tonight that the

former political boss will now refuse all overtures for immunity in consideration of his testifying in the bribery graft cases.

Although the court ordered Schmitz discharged from custody, neither Schmitz nor Ruef can take advantage of the reversal for 60 days, and even then there is little likelihood they ever will be able to secure the enormous bail required. There is still pending against Ruef 126 indictments on which the total bail is \$1,170,700, and Schmitz would have to give bonds for \$450,000, on the indictments remaining against him. Superior Judge Dunne, before whom Schmitz was convicted, and Ruef pleaded guilty, did not hesitate to criticize the action of the higher court.

"It is to be regretted the hearing of this appeal came up before a court whose members have intimate friends against whom many indictments were returned by the grand jury, that returned these true bills. In view of these facts I do not believe the court was in a proper frame of mind to give this matter an impartial consideration and decide it strictly upon its merits. I am satisfied the evidence and the law sustained the judgment and verdict. I will further state that the jury which returned this verdict, in accordance with the evidence and law will be remembered with respect and honor in this community long after the court which set the verdict aside, has been forgotten."

Both Schmitz and Ruef, when seen at the county jail refused to make any statement. F. J. Heney arrived from Tucson today en route to Portland. He was in conference all the afternoon with District Attorney Langdon, Rudolph Spreckels, Detective Burns and several of the district attorney's assistants. When the conference broke up, in order to enable Heney to secure the Portland train it was announced no statement would be made, and that hereafter the district attorney's office would adopt the policy of strict silence in regard to its future plans.

Heney would only say that the decision had not embarrassed the prosecution at all. Langdon declared the prosecution of the bribery graft cases would continue to be vigorously pushed.

BREACH STILL OPEN

Massachusetts Democrats Have
Some Troubles.

TWO STATE COMMITTEES

One Bunch of Followers of the Long-
Eared Quadruped Refuse to Play in the
Other Bunch's Pasture—National Con-
vention May Have Two Sets of Delegates

BOSTON, Jan. 9.—That the split in the Democratic party in Massachusetts, manifested at the memorable state convention held in Springfield last October, is still wide open, was shown today at the meeting here of 27 out of 56 members of the state committee. Many members of the committee refused to attend the meeting and declared they would heed the call for what they consider the regular meeting of the committee tomorrow.

The call for today's meeting was issued by W. S. McNary, second vice-chairman of last year's state convention. The call for tomorrow's meeting is by J. P. Feeney, chairman of the state committee. It is expected there will be two state conventions this spring and that the claim of two sets of Democrats will have to be adjudicated by the Democratic national committee.

ONE MORE JUROR.

NEW YORK, Jan. 9.—One new juror was added to the Thaw trial panel today making seven in all selected from 400 talesmen summoned since the beginning of the trial. Another panel of 100 will report tomorrow. The rate of progress is not gratifying either to the prosecution or the defense and better things are hoped for tomorrow. At the close of today's work the prosecution had employed 14 of the 30 challenges allowed by law and the defense had expended 19.

NAVY UNDER DISCUSSION

Hale Presents Navy Per-
sonnel Bill.

TILLMAN WOULD KNOW

Considers Advisability of Offer-
ing Resolution to Have
Investigation.

BROWNSON AFFAIR DISCUSSED

Hale Explains That Bureaus Should
Handle Affairs of Department Instead
of New Style Boards—Tillman Would
Like to Hear Brownson's Version.

WASHINGTON, Jan. 9.—The introduction by Hale, today, of his navy personnel bill proved a general discussion of naval affairs and recent occurrences in connection with that branch of the public service. The Maine Senator entered upon the full explanation of the provisions of the measure today, with his reasons for its adoption. He was soon called upon, by Tillman, who asked for consideration of the bill and will probably bring out facts relating to the controversy in the navy department. Tillman said he had considered the advisability of offering a resolution for such an investigation. Hale responded that after looking the matter over he had selected this manner of action which involves consideration by the Senate, instead of submitting the department to investigation. Hale said the first proposition was to see that the business of the department be conducted as it had been in former times of great peril to the country, by bureaus and officers of the department. It is only in late years that boards have been organized in the bureaus, where the real work is done. He said he had provided in his bill that unless the boards are to carry out the specific laws they shall not be continued or appointed in the future.

Regarding line and staff officers and their duties he said he had inserted a provision that the rank of staff officers should not carry with it the command of any vessel in the navy. In explanation he said he had merely inserted this provision in order that it might be discussed by the committee and perhaps by the Senate. Hale spoke of the naval academy and of its magnificent equipment saying there are now 1164 midshipmen in the academy, and on practice cruise, and it would soon be necessary to receive into the navy only a portion of the graduates and permit the balance to go into civil life. Gallinger objected to spending \$10,000,000 or \$15,000,000 for educating men who are to go into private life. Tillman again entered into the discussion and again referred to the Brownson incident. He referred to the magazine articles criticizing the navy and charging that ships were being built in a way to fit them "Only for the ash heap." That assertion he said should either be contradicted or the construction of such vessels stopped. "Will it," he said, "Why Brownson resigned?" and continuing, "The President has given his version of the controversy, but although he is a great stickler for a square deal, he did not give Admiral Brownson's version of it. I want to know whether the minority members of this committee will be given an opportunity to have the facts brought out." Hale said he hoped that there would be no question of minority or majority in the committee as it had always acted as one body. "I simply wanted to know," said Tillman, "Whether we should be stopped from getting witnesses." "I should certainly not be in the way

of the Senator when he wants to call in witnesses," responded Hale, smiling.

Without definitely admitting the whole naval controversy would be opened up in the committee's consideration of the bill, Hale gave his belief as a probability that the committee would go to a certain extent into the subject.

OPTIMISTS CLUB.

Every Man Who Can Smile in the Face
Trouble Invited.

NEW YORK, Jan. 9.—Humor is being invoked in what purports, nevertheless, to be a serious effort to gather the true optimists of the country into one big organization through the efforts of the Optimistic Club of America, with offices at 52 Broadway. Governor Cutler, of Utah, is chairman of the club's executive committee, which yesterday sent out thousands of copies of a circular containing the platform, headed by the following:

"Twixt optimist and pessimist,
"The difference is drill;
"The optimist sees the doughnut;
"The pessimist the hole."
The club invites every man who can smile in the face of trouble to join, and pass the smile along.

TROUBLE IN SOMALILAND.

Italian Forces and Abyssinians Engage
in Pitched Battle.

ROME, Jan. 9.—News has been received here of serious trouble in Italian Somaliland, which resulted in pitched battles between the Italian forces and Abyssinians near Lugh. The Abyssinians were robbing, killing and imprisoning many merchants. Late dispatches indicate the fighting was much more severe than at first reported and it is believed the Italian government is concealing a severe reverse in order to prepare the public for graver news. The importance of the situation lies in the establishment of the fact as to whether King Menelik, who never ratified the cessation of Lugh to the Italians, ordered the attack.

KILLED IN DISASTER

Mrs. A. P. Boyd and Son Meet
Death in Wreck.

COACHES WERE OVERTURNED

Tramp Also Reported as Victim of Dis-
aster to the Sunset Express Near San
Jose, California—Eighteen Persons Are
Injured—Cause Unknown.

SAN JOSE, Jan. 9.—Mrs. A. P. Boyd, of Portland, Ore., and little son, were killed tonight in the wreck of the Sunset Express on the Southern Pacific at Rucker, 25 miles south of here. A tramp is also reported killed. Eighteen are injured and are being treated at the Gilroy Hotel. The cause of the wreck is unknown at this time. Two coaches were overturned on the tracks and one was thrown into the county road.

PORTLAND, Jan. 9.—Mrs. Boyd and son, who were killed in the Southern Pacific wreck, near San Jose, were the wife and son of Rev. A. P. Boyd, who until recently was pastor of the Sellwood M. E. Church, of this city. Mrs. Boyd left on Tuesday or Wednesday and joined her husband at Roseburg, Oregon, whether he had preceded her a couple of days. Boyd was in ill health and for that reason secured a transfer from the Sellwood church to the First M. E. Church of Atlanta, Ga. The family was en route to that city when the accident occurred.

POLICE BAFLED.

CHICAGO, Jan. 9.—Thieves entered the residence of Samuel Schwartz in Waukegan yesterday and took \$6000 worth of jewelry, mostly diamonds. The police are baffled, as there are no signs of ingress or egress. There was no sign of a search for valuables. Everything showed the thief knew exactly where to find what he wanted.

TAFT FAVORS FEDERAL LAW

Statue Should be Made
on Injunctions.

SHOULD DEFINE RIGHTS

For Determining When Injunc-
tions Should Issue in
Labor Disputes.

SHOULD GIVE DEFENDANT TIME

Secretary Believes ex Parte Issuance of
Injunctions Should be Corrected—
Laborers Are Entirely Lawful in Unit-
ing to Protect Their Interests.

MARTINS FERRY, Ohio, Jan. 9.—The views of Secretary Taft, in regard to the abuse of the injunction, are set forth in a letter replying to questions propounded by Secretary Lewis, of the Ohio Federation of Labor. Secretary Taft prefaces his statement with the declaration that he believes it will be "Highly beneficial and entirely lawful for laborers to unite in their common interests."

In brief Taft says he sees no objection to the enactment of a statute which will define the rights of laborers in controversies with their former employers. This would necessarily furnish a definite rule for determining when injunctions should issue, as well as their character and scope.

Second—Whether the Secretary believes no injunction should issue, until after notice has been given the defendant and a hearing had. Taft says he has stated many times in public that the power to issue injunctions ex parte has given rise to certain abuses and injustice to laborers engaged in peaceful strike, in that, without a hearing their strike is weakened, although their purpose may have been entirely lawful, by an order in which they never had an opportunity to question, and which is calculated to discourage their action. Taft says he favors a federal statute requiring a notice and hearing before the injunction issue.

Third—Should the courts retain the power of issuing ex parte injunctions, Taft thinks it is eminently proper that the statute require the court issuing the injunction to give the defendant a short period, says three or four days, in which to have a hearing thereon, before the injunction issue.

Fourth—Taft says regarding the punishment of persons in contempt of court, for violating injunctions, that the belief that the judge whose order is violated makes a personal matter of it, is in most cases unfounded. He does believe, however, where it can be done without injuring the authority of the court, that it would be well, in order to avoid even an appearance of injustice, to have the question of contempt decided by another judge than the one issuing the injunction.

CANON IN COURT.

Not a Piece of Artillery But a Big Gun in
Church.

NEW YORK, Jan. 9.—Canon William Sheafe Chase, of Christ Episcopal Church of Brooklyn, has been summoned to appear in court today to show cause why he should not be punished for contempt of court. The order was issued by Judge Marston of the supreme court, and is based on an interview with Canon Chase published in a New York newspaper in which the clergyman criticised severely Justice Marston's action in granting an injunction against police interference with a Sunday performance in a Brooklyn place of amusement.

LAND AND WATER DISPLAY.

San Francisco Gets Ready to Entertain
Big Fleet.

SAN FRANCISCO, Jan. 9.—A land and water display was outlined yesterday for San Francisco in an address to the citizens read at a meeting of the mayor's committee for the reception of the United States battleship fleet on its arrival here. Daily and nightly for not less than a week this city will be the scene of pageants and various forms of entertainment and gaiety in honor of the 22,000 officers and men who will represent the power of the nation afloat. Decorations and illuminations will give to the streets and harbor a gala effect and embraceros, pavilions and triumphal arches will be constructed, while balls, theater parties, outings and athletic sports will give the last touch to the entertainment program.

One hundred thousand dollars will be expended to sustain the reputation of San Francisco for hospitality and of the Pacific Coast for patriotism. This sum will be raised by subscription from the people and municipal appropriation.

NEW DIOCESE.

Roman Catholic Bishopric Created in
Illinois.

CHICAGO, Jan. 9.—A new Roman Catholic diocese was created in the State of Illinois yesterday. It was carved out of the Arch-diocese of Chicago and will be known as the Bishopric of Rockford. A new bishop will soon be provided for it. He will have his cathedral in Rockford and his residence will also be in that town.

The new diocese will comprise twelve counties in the northwestern section of the state, and have at the start a Catholic population of 100,000. It was formed at a meeting here, presided over by Archbishop James E. Quigley and attended by the three Bishops of the state—J. L. Spalding, Peoria; Jas. Ryan, Alton; and J. Jansen, Belleville.

The bishop of the new diocese will be a suffragan to the Chicago arch-diocese making four suffragan bishops in the state where now there are only three.

HUGHES IS LAUNCHED

New York's Governor Will be
Presidential Candidate.

GIVEN TUMULTUOUS APPLAUSE

New York Republicans Give Dollar Din-
ner and Although the Governor Was
Absent All the Speakers Declared in
Favor of Booming His Candidacy.

NEW YORK, Jan. 9.—The candidacy of Governor Hughes for the Republican presidential nomination was launched at the "Hughes dollar dinner" given by the enrolled Republicans of the 29th assembly district at Terry Garden tonight. The Governor was not present, but sent a telegram in which he expressed the wish that all should contribute in making the Republican party a constantly effective instrument for the correction of abuses, and for conserving the rights and opportunities of all by impartial and straightforward administration. The speakers included Seth Low and Dr. Robert M. McArthur, and their arguments in support of Governor Hughes' candidacy were greeted by the 300 diners with tumultuous applause. All the speakers declared he should be New York state's candidate.

THIEVES GET \$6000 IN JEWELRY.

CHICAGO, Jan. 9.—Thieves entered the residence of Samuel Schwartz in Waukegan yesterday and took \$6000 worth of jewelry, mostly diamonds. The police are baffled, as there are no signs of ingress or egress. There was no sign of a search for valuables. Everything showed the thief knew exactly where to find what he wanted.